

**REPORT - PLANNING COMMISSION MEETING**  
**April 8, 2004**

**Project Name and Number:** Mission Villas (PLN2004-00192)

**Applicant:** Braddock and Logan Group II

**Proposal:** To consider a Vesting Tentative Tract Map 7465, a Private Street and a Preliminary Grading Plan for 18 single-family and 54 multi-family residences.

**Recommended Action:** Approve, based on findings and subject to conditions.

**Location:** 533, 575, 615, 669, 687 Washington Boulevard in the Mission San Jose Planning Area

**Assessor Parcel Number(s):** 513-504-103; 513-504-104; 513-504-105-01; 513-504-1-05; 513-504-102-02; 513-504-102-01

**Area:** 5.71 acres

**Owner:** Braddock and Logan Group

**Agent of Applicant:** Jim Sullivan

**Consultant(s):** MacKay & Soms (Engineer)

**Environmental Review:** A Mitigated Negative Declaration has been adopted as part of the General Plan Amendment approved under PLN2002-00321.

**Existing General Plan:** Medium Density Residential (6.5-10 dwelling units per acre) and Medium Density Residential (15-18 dwelling units per acre)

**Existing Zoning:** P-2003-266(H) Planned District, Historic Overlay District

**Existing Land Use:** Vacant land (two single-family homes were recently demolished)

**Public Hearing Notice:** Public hearing notification is applicable. A total of 182 notices were mailed to owners and occupants of property within 300 feet of the site on the following streets: Washington Boulevard, Enos Street, Gallegos Avenue, Gallegos Terrace, Emerson Street, Palm Avenue, Coit Avenue, Nielsen Court, Hawthorne Drive, Washington Common, Debrum Common, Azevedo Common, and Livermore Common. The notices to owners and occupants were mailed on March 24, 2004. A Public Hearing Notice was delivered to The Argus on March 22, 2004 to be published by March 25, 2004.

**Executive Summary:** The project applicant proposes a Vesting Tentative Tract Map 7465, a Private Street and a Preliminary Grading Plan to subdivide a 5.7 acre site into 81 parcels (72 parcels for dwelling units, with the remainder for common facilities), implementing previously approved Preliminary and Precise Planned District P-2003-266.

**Background and Previous Actions:** The Planning Commission recommended approval of a Mitigated Negative Declaration and a General Plan Amendment from Medium Density Residential (6.5-10 dwelling units per acre) and Neighborhood Commercial to Medium Density Residential (6.5-10 dwelling units per acre) and Medium Density Residential (15-18 dwelling units per acre) on March 13, 2003. The City Council adopted the Mitigated Negation Declaration at the April 8, 2003 City Council meeting and then approved the General Plan Amendment at the May 13, 2003 City Council meeting.

The Preliminary and Precise Planned District application was referred to the Historic Architectural Review Board (HARB) on November 6, 2003 for comment on architecture of the multi-family residences. The Planning Commission

recommended approval of the Preliminary and Precise Planned District to the City Council on January 22, 2004. The City Council approved the Preliminary and Precise Planned District on February 24, 2004.

**Project Description:** The applicant is requesting approval for a Vesting Tentative Tract Map (Tract 7465), a Private Street and Preliminary Grading Plan for the development of 18 single-family homes and 54 town homes. The proposed project is consistent with the previously approved Preliminary and Precise Planned District. The new lots range in size from approximately 4,081 to 7,520 square feet for the single-family homes and 900 to 1,855 square feet for the town homes. The proposed project includes an extension of Enos Street to serve the single family homes and new paved private vehicle access ways (PVAW) throughout the town home development that range in width from 24-25 feet.

The Preliminary Grading Plan indicates the on-site grading will involve approximately 14,500 cubic yards. There will be a total of 3,400 cubic yards of cut and 12,700 cubic yards of fill on the site. Approximately 11,100 cubic yards of fill will need to be imported to the site.

## **PROJECT ANALYSIS:**

**General Plan and Zoning Regulations Conformance:** Conformity with the General Plan and discussion of Zoning Regulations was discussed in the staff report for the Preliminary and Precise Planned District and will not be repeated here for the sake of brevity. The existing General Plan land use designation for the project site is Medium Density Residential at two density ranges: 6.5-10 and 15-18. The proposed project is consistent with the existing General Plan land use designation for the project site because the Preliminary and Precise Planned District application was deemed complete prior to July 1, 2003 and was not required to meet the midpoint of the density range and the applications for a Vesting Tentative Tract Map, a Private Street and Preliminary Grading Plan to implement the approved Planned District.

The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

GOAL H 2: High quality and well designed new housing of all types throughout the City.

GOAL H 3: Housing affordable and appropriate for a variety of Fremont households at all economic levels throughout the City.

Policy LU 1.23 A variety of unit types and sizes shall be encouraged within each multi-family project.

The single-family homes and multi-family homes substantially meet the requirements of the Small Lot Design Guidelines and the Mission San Jose Design Guidelines and represent a high quality product. The development will provide eight below market rate units for purchase. Also, due to the mix of products, both single-family and town home, a range of market rate housing units will be added to the City of Fremont housing stock. Three different unit types will be provided in the multi-family portion of the project to further add to the mix of housing product.

**Zoning Regulations:** The application conforms to the approved Planned District (P-2003-266), with the exception of landscaping requirements as noted below.

In order to accommodate the future potential development of the Irvington Auto Service site for residential purposes, an irrevocable easement will be required as a condition of approval of the Vesting Tentative Tract Map. This irrevocable offer will provide for access, connections to utilities and services, etc., over a portion of the site and the PVAW will extend from the back of the Irvington Auto Service site through the project's PVAW's to Washington Boulevard. This irrevocable offer of access will only be exercised if the property is developed for residential purposes. It may not be exercised if developed for commercial use.

**City Landscape Architect Review of Proposed Tree Removal and Preservation:** The proposed project is located on a site that has 9 mature trees throughout. In addition, 3 trees on adjacent properties will be impacted by the development. The planned district required all trees be preserved except for Tree # 94 Sweet Gum and Tree # 90 Magnolia. During the review of the Vesting Tentative Tract Map and Preliminary Grading Plan it became apparent that trees #87, 88, 89, 91, 92, and 93 cannot be preserved due to the widening of Washington Boulevard. The acceptable substitution for the removal of these trees shall be sixteen 36 inch box Magnolia street trees installed along the Washington Boulevard frontage. This is consistent with the provisions of the Tree Preservation Ordinance.

The Cedar tree number #95, designated for preservation, will require tree protection measures that may include construction of a retaining wall up to three feet high, relocation of proposed hardscape elements, relocation of utilities and modifications to grading. The City shall hire an Arborist at the client's expense to analyze the impacts of the development on the trees and prepare specific guidelines for the preservation of these trees during the Tract Improvement Plan review. Particular emphasis will be placed on the above mentioned Cedar tree during this evaluation.

The Mitigated Negative Declaration identified a Mitigation Measure that required protective measures for the existing Magnolia trees on Washington Boulevard during construction. As the street widening plans now clearly show that these street trees cannot be retained to meet the City of Fremont's street widening objectives, these protective measures are not required. The replacement of the six trees on Washington Boulevard with sixteen 36 inch box Magnolia trees is an acceptable substitution under the provisions of the Tree Preservation Ordinance. Staff has reviewed the California Environmental Quality Act (CEQA) provisions related to the recirculation of adopted Negative Declarations when minor modifications occur in a project. Section 15162, Subsequent EIR's and Negative Declarations, was reviewed by staff and none of the provisions which would require the recirculation of the Mitigated Negative Declaration are triggered as there are no new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

**Inclusionary Zoning:** The project is not subject to the inclusionary housing requirements because this project was an active application at the time of the passage of the Inclusionary Housing Ordinance. However, at the General Plan Amendment stage, the applicant voluntarily proposed a 10 percent affordability component with 7 units. At the March 13, 2003 Planning Commission meeting, the Planning Commission requested consideration of providing additional below market rate units. Although not required to, the applicant is now proposing 8 below market rate units.

## **ENGINEERING ANALYSIS:**

**Subdivision Analysis:** The applicant has proposed a tentative map to create 81 lots. There are 18 small-lot single-family detached lots along Enos Street, 54 multi-family attached townhouse lots with access off of Mission Boulevard, and 9 common ownership lots within the multi-family part of the project. The lettered lots contain the common area improvements, including landscaping, parking, drive aisles, and utilities.

On the tentative map, note 25 reserves the right for the developer (subdivider) to record multiple final maps. Due to the potential phasing of final maps, specific conditions of approval are included regarding street and utility improvements required with each phase. In general, the creation of a lot for development of a residential use is contingent upon the construction of infrastructure to service that lot. As an example, before a final map is approved which creates lot 55 along Enos Street, the subdivider must install, or agree to install, all the street improvements for Enos Street and all utility improvements needed to serve lot 55.

**Circulation/Access Analysis:** The project site is split into two portions. The single-family detached homes have access and frontage on Enos Street, an existing minor residential cul-de-sac street. The multi-family town homes have access from Washington Boulevard, an existing four-lane thoroughfare. On-site vehicular access to the town homes is provided by private vehicle access ways (PVAW), a type of private street used for condominium and town home projects. Pedestrian access is provided by public sidewalk on Enos Street and through a series of pathways throughout the multi-family portion of the project.

**Street Improvements:** The northern part of the project, along Enos Street, is proposed as single-family detached homes and the southern part, along Washington Boulevard, is proposed as multi-family town homes. The applicant proposes to extend Enos Street to the west, in order to provide frontage to eight of the eighteen new single-family lots. Washington Boulevard will be widened and improved along the project frontage. The following bullet points highlight the required right-of-way dedications and street improvements:

- Washington Boulevard is planned as a four-lane thoroughfare (two lanes each direction) between I-680 to the east and Mission Boulevard to the west. A two-way left-turn lane is planned for the center of Washington Boulevard, instead of a raised median. The ultimate right-of-way for this portion of Washington Boulevard is planned at 104 feet

(52 feet from centerline) with a pavement width of 84 feet. Currently the Washington Boulevard frontage has street improvements along approximately 330 feet of the project frontage. These improvements were done to accommodate the previous retail commercial use on the site. Additionally, street improvements exist on both the east and west boundary of the project.

In accordance with the Subdivision Ordinance and the Planned District zoning (P-2003-266), the developer shall dedicate street right-of-way and install complete street improvements to the centerline of Washington Boulevard. The project plans show a curved curb and sidewalk at the eastern boundary, next to the existing auto repair use. Instead of installing this transitional curb, gutter, landscaping, and sidewalk, the developer shall instead install the permanent improvements to the planned alignment, and provide temporary curb and standard barricade to transition between the improved frontages. Staff has annotated the exhibits to illustrate the required improvements.

- Enos Street is a minor residential cul-de-sac street and was originally constructed as part of Tracts 1196 and 1389, both of which were approved prior to City incorporation in 1956. Further improvements were done as part of the retail commercial development that previously occupied part of the project site. The curb-to-curb pavement width of Enos Street is thirty-six feet, equal to current City standards for cul-de-sacs with between twenty-one and thirty units. However the right-of-way width is only fifty-four feet, two feet less than current City standards.

The previously approved Planned District (P-2003-266), included a condition of approval regarding the required right-of-way dedication and street improvements for Enos Street. Although the plan exhibits for the Planned District were correct, the condition of approval for Enos Street contained a typographic error in the planned right-of-way and pavement widths. For this reason, the vesting tentative tract map application includes the corrected condition of approval. The applicant was made aware of this typographic error and has not protested the corrected condition of approval.

- Off-site Improvement Requirement: Enos Street currently terminates as an unfinished cul-de-sac. The applicant proposes to move the terminus of Enos Street approximately 210 feet to the east, construct a standard cul-de-sac bulb, thereby providing additional public street frontage for the proposed single-family lots. The existing cul-de-sac shall be removed by the developer and replaced with City standard curb, gutter, landscape strip, and sidewalk. A portion of the existing cul-de-sac is along Lots 12 and 13 of Tract 1389, which are outside the boundary of the proposed subdivision.

In addition to removing the existing cul-de-sac bulb, the developer shall apply for and receive approval of a street abandonment for those portions of street right-of-way no longer needed. The abandoned right-of-way is adjacent to the Lots 11 and 12 of Tract 1389 and within proposed Lots 64 and 65.

- Private Vehicle Access Ways (Town homes): The developer is responsible for construction of the private vehicle access ways within the town home portion of the project. The private vehicle access ways are a type of private street. A homeowners association or other acceptable mechanism will be established for the long-term ownership and maintenance of the common facilities within the townhouse development, including the private vehicle access ways.
- Public Service Easement: The developer shall dedicate a minimum six-foot wide public service easement along the Washington Boulevard and Enos Street project frontage.

**Grading/Topography:** The project site was previously improved with two existing single-family homes fronting Washington Boulevard and the parking lot and building pad of a former grocery store. Also, there are existing street improvements including street trees along portions of the project frontage.

The site slopes down to the west from existing surface elevations of approximately 253 feet at the easternmost edge down to approximately 235 feet in the northwest corner. The single-family homes are proposed as flat-pad lots with pad elevations following existing and proposed slope of Enos Street. Retaining walls are proposed along the property lines of most of the single-family lots. The tallest proposed retaining wall is three feet tall and is located in the northwest corner of Lot 69.

Grading, including construction of retaining walls, is also proposed as part of the multi-family townhouse development. In addition to the retaining walls between the townhouses and single-family homes, there are retaining walls shown adjacent to Lots 1, 8, 9, 16, 17, 36, 37, 43, 48, and 49. The wall near Lot 48 is intended to help preserve the existing tree.

**Drainage:** An existing public storm drain pipe runs west from the end of the existing Enos Street cul-de-sac towards the adjacent residential development, Tract 2216. Near the project boundary, this storm drain pipe turns ninety degrees and runs north, through the side yard of Lot 4, Tract 2400, into a manhole in Emerson Street. The applicant's storm drain design uses this existing storm drain. On-site and/or off-site improvements may be required to provide adequate storm drainage for this project.

The vesting tentative map and preliminary grading plan do not include any storm drain facilities within Washington Boulevard. The Washington Boulevard frontage length is such that storm drain inlets are needed. The subdivider (developer) will incorporate public storm drain improvements on Washington Boulevard as part of the required street improvements. The drainage system shall be subject to approval of the City Engineer and the Alameda County Flood Control and Water Conservation District.

**Urban Runoff Clean Water Program:** The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. Adopted regulations require discharges of storm water associated with new development and construction to submit a Notice of Intent (NOI) to the State of California for activities disturbing more than one acre of land. The NOI is to include the development and implementation of a storm water pollution prevention plan emphasizing best management practices. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.

**ENVIRONMENTAL ANALYSIS:** An Initial Study and Draft Negative Declaration were prepared for the General Plan Amendment in March of 2003 and adopted by Council in April of 2003.

Staff has reviewed the California Environmental Quality Act (CEQA) provisions related to the recirculation of adopted Negative Declarations when minor modifications occur in a project, in relationship to the Magnolia trees on Washington Boulevard. Section 15162, Subsequent EIR's and Negative Declarations, was reviewed by staff and none of the provisions which would require the recirculation of the Mitigated Negative Declaration are triggered as there are no new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

A finding is proposed that this project does not represent any new impacts not addressed in the Initial Study and Negative Declaration adopted in April, 2003.

**Response from Agencies and Organizations:** All responding utility services stated the site could be serviced.

#### **APPLICABLE FEES:**

**Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects/units will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance. Credit for the former Rebello's Market and the two single -family homes shall be included in the calculation for Impact Fees due to the City.

<b>ENCLOSURES:</b>	Exhibit "A"	(Vesting Tentative Tract Map 7465 and Private Street Plan)
	Exhibit "B"	(Findings and Conditions of Approval –Vesting Tentative Tract Map)
	Exhibit "C"	(Findings and Conditions of Approval – Private Street)
	Exhibit "D"	(Preliminary Grading Plan)
	Exhibit "E"	(Findings and Conditions of Approval – Preliminary Grading Plan)

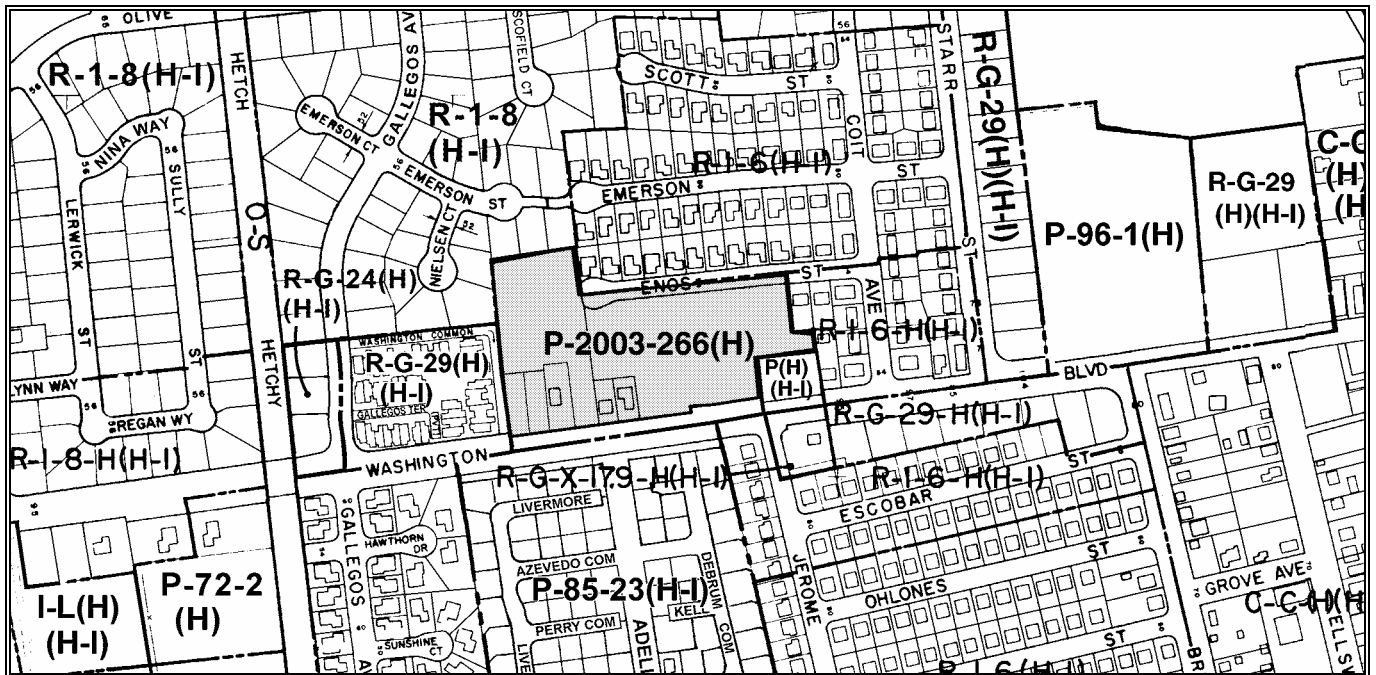
<b>EXHIBITS:</b>	Exhibit "A"	(Vesting Tentative Tract Map 7465 and Private Street Plan)
	Exhibit "D"	(Preliminary Grading Plan)

**Recommended Actions:**

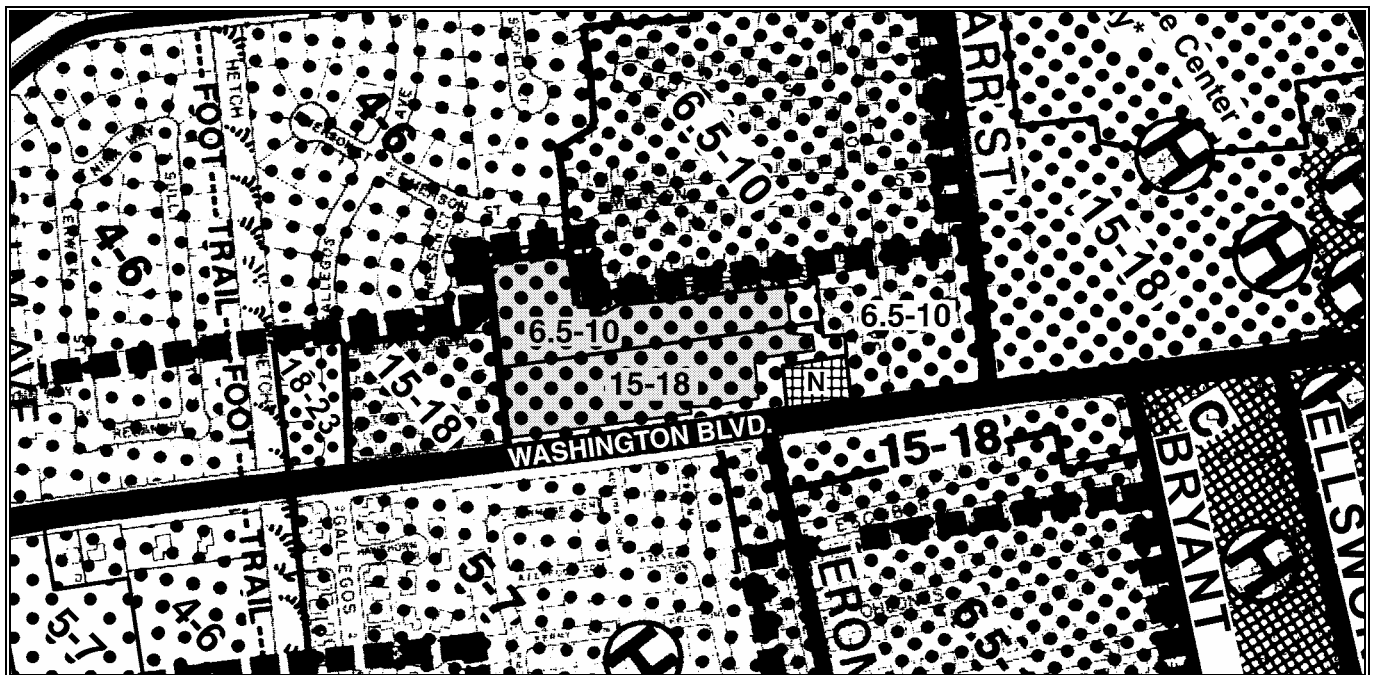
1. Hold public hearing.
2. Find the previous initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources, and no new impacts have been identified. This project does not represent any new impacts not addressed in the Initial Study and Negative Declaration adopted in April, 2003. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Find PLN2004-00192 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Land Use and Housing Chapters as enumerated within this staff report and the Planning Commission staff report dated January 22, 2004.
4. Approve PLN2004-00192, as shown on Exhibit "A" (Vesting Tentative Tract Map 7465 and Private Street), subject to findings and conditions in Exhibits "B" and "C" and approve Exhibit "D" (Preliminary Grading Plan), subject to findings and conditions of approval of Exhibit "E."

## Existing Zoning

Shaded Area represents the Project Site



## Existing General Plan



**EXHIBIT "B"**  
**MISSION VILLAS**  
**Vesting Tentative Tract Map 7465 (PLN2004-00192)**

**FINDINGS:**

The findings below are made on the basis of information contained in the staff report to the Planning Commission and information received at the Public Hearing on April 8, 2004, incorporated herein.

1. The proposed map satisfies the requirements and conditions imposed by the Subdivision Map Act and the City of Fremont Subdivision Ordinance, because the procedural requirements of the Map Act are being followed and the proposed lots conform to the standards as stipulated in the Planned District (P-2003-266) zoning district.
2. The proposed subdivision, together with the provisions of its design and improvement, is consistent with the General Plan, the Mission San Jose Guidelines and Small Lot Design Guidelines because the proposed development conforms to the Planned District (P-2003-266) and conforms, or substantially conforms, to the guidelines identified in the Mission San Jose Guidelines and Small Lot Design Guidelines, as enumerated in the Planning Commission staff report dated January 22, 2004.
3. The site is physically suitable for the type and proposed density of the development, because it is consistent with the General Plan land use density designation of 6.5-10 and 15-18 dwelling units per acre and the P-2003-266 zoning designation for the site.
4. The design of the subdivision and the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, because of the design and location of the development and the implementation of the identified mitigation measures identified in the Initial Study and Mitigated Negative Declaration.
5. The design of the subdivision and the type of improvements are not likely to cause serious public health problems, because the review process of the subdivision has taken those concerns into consideration and has found the proposal in conformance with the City of Fremont's policies.
6. The design of the subdivision and the type of improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision. Acquisition of any new easements will be required prior to the acceptance of the Final Map for this project.

**CONDITIONS:**

1. The project shall conform with staff amended Exhibit "A" (Vesting Tentative Map 7465, Private Street), and Exhibit "D" (Preliminary Grading Plan), all conditions of approval set forth herein (Exhibits B,C and E), and all conditions of approval of Planned District PLN2003-00266.
2. Approval of this Vesting Tentative Map shall expire according to the provisions of the State Subdivision Map Act and any amendments thereto and applicable provisions of the Fremont Municipal Code consistent with the State Subdivision Map Act.
3. This Vesting Tentative Map may employ multiple phased Final Maps which shall be prepared in accordance with state and local laws. Prior to the approval of a phased Final Map creating a lot for development of a residential structure, the subdivider shall improve or agree to improve, in accordance with the Subdivision Ordinance, all streets, thoroughfares, public ways, utilities, and easements, in the subdivision and adjacent thereto as required to serve said lot.
4. The subdivider shall dedicate right-of-way and install complete street improvements for Enos Street along the project frontage. Right-of-way dedication is required to provide for the ultimate planned right-of-way of fifty-six feet,



with a pavement width of thirty-six feet. Enos Street shall be terminated with a City standard type "A" cul-de-sac bulb. The subdivider shall install complete street improvements for the extension of Enos Street and shall install complete street improvements to the centerline of Enos Street for the frontage of lots 55 through 65. Street improvements include, but are not limited to: installation of landscape, irrigation, streetlights, fire hydrants, storm drain facilities; and relocation of existing utilities. Additionally, the developer shall remove the existing cul-de-sac on Enos Street and replace it with the City standard for minor residential street, including along the frontages of lot 11 and lot 12 of Tract 1389.

5. The subdivider shall incorporate a storm drain system with the Washington Boulevard street improvements. Storm drain system improvements include, but are not limited to, curb inlets, storm drain pipe, and storm drain manholes. The required storm drain system shall be subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District prior to approval of the Final Map.
6. Above ground architectural and building features that project over proposed property lines shall be permitted on townhouse units by easements recorded on the Final Map. Such features include, but are not limited to, eaves, bay windows, balconies, porches, landings, and stairways. All such architectural and building features shall also comply with all other applicable local building codes.
7. The streetlight plan and joint trench plan shall be submitted by the applicant with the first subdivision plan check for the street improvement plans. The final streetlight plan and joint trench plan shall be completed prior to final map approval.
8. The developer shall request P.G.&E. to commence with the design of the utility underground work for the proposed development after the Planning Commissions approval of Tentative Tract Map 7476.
9. Precise geometry and location of all driveways shall be subject to approval of the City Engineer. The driveways on Washington Boulevard shall be modified type "E" driveways.
10. Any development on the newly created lots will be subject to Citywide Development Impact Fees. These fees include fees for fire protection, capital facilities, park facilities, and traffic impact. The fees shall be calculated at the rate in effect at the time of building permit issuance. The fees will be collected prior to building permit issuance. Credit for the former Rebello's Market and the two single-family homes shall be included in the calculation for Impact Fees due to the City.
11. In accordance with Section 66474.9(b) of the Subdivision Map Act, the subdivider shall defend, indemnify, and hold harmless the City of Fremont or its agents, officers, or employees from any claim, action, or proceeding against the City of Fremont or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City of Fremont, advisory agency, appeal board, or legislative body concerning a subdivision, which action is brought within the time period provided for in Section 66499.37 of the Government Code.
12. The City of Fremont shall promptly notify the applicant of any claim, action, or proceeding to attack, set aside, void, or annul, its approval and shall cooperate fully in the defense thereof.
13. All new utility service connections, including electrical and communications, shall be installed underground.
14. The developer shall underground all existing overhead utility lines along the public street frontage of the project in accordance with the City of Fremont's Utility Underground Ordinance.
15. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site to effectively prohibit the entry of pollutants into storm water runoff. The plans will also include storm water measures for operation and maintenance of the project.
16. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.

17. The developer, at time of initial sale, shall provide to the buyer information on good housekeeping of hazardous products, i.e. proper use and disposal, prohibited discharge practices, etc. Informational materials will be furnished by the City.
18. A home owner's association or any other mechanism acceptable to the City is to be established, formed, and is to covenant and be responsible for the maintenance of all commonly owned facilities, which are not maintained by the public utility agency. The maintenance responsibility includes, but is not limited to, maintenance work resulting from backfill failure and maintenance of private vehicle access ways. The developer is responsible for maintenance for all facilities during the warranty period.
19. In order to accommodate the future potential development of the Irvington Auto Service site for residential purposes, an irrevocable easement will be required as a condition of this Vesting Tentative Tract Map. This irrevocable offer shall provide for access, connections to utilities, services, etc., over a portion of the site and the PVAW. The irrevocable easement area will extend from the back of the Irvington Auto Service site through the project's PVAW's to Washington Boulevard. Access through landscaping areas in the identified area shall be made available as part of this access easement. This irrevocable offer of access will only be exercised if the property is developed for residential purposes. It may not be exercised if future development of the Irvington Auto Service is for commercial use.
20. Prior to Final Map approval, the subdivider shall apply for and receive approval of a street abandonment for the portions of the existing Enos Street cul-de-sac right-of-way being removed as part of the proposed subdivision, including those portions fronting Lot 11 and Lot 12 of adjacent Tract 1389.
21. The following on-site trees are to be removed due to the widening of Washington Boulevard in compliance with City Engineering Standards: numbers 87 Magnolia, 88 Magnolia, 89 Magnolia, 91 Magnolia, 92 Magnolia, and 93 Magnolia. The required substitution for the removal of these trees shall be sixteen 36 inch box size Magnolia trees installed as street trees in the landscape strip along Washington Boulevard. Tree number 95 Incense Cedar shall be preserved. In addition, the two Chinese Tallow trees located on Lot 11 Tract 1389 and the Casurina on Lot 16 Tract 1196, will be preserved. This condition supercedes condition H-1 of the Planned District PLN2003-00266.

**SUBDIVIDER PLEASE NOTE:**

The fees, dedications, reservations and/or other exactions imposed on this project are those listed in the foregoing conditions of this tentative tract map approval. The subdivider is hereby notified that the 90-day period in which the subdivider may protest these fees, dedications, reservations and other exactions pursuant to Government Code Section 66020(a) begins on the date of approval of this tentative tract map. If the subdivider fails to file a protest within this 90-day period complying with all the requirements of Government Code Section 66020, the subdivider will be legally barred from later challenging such actions.

**EXHIBIT "C"**  
**MISSION VILLAS**  
**Private Street (PLN2004-00192)**

**FINDINGS:**

The findings below are made on the basis of information contained in the staff report to the Planning Commission dated April 8, 2004, incorporated herein.

1. The most logical development of the land requires private street access because the physical character of the project is more amenable to the less intense right of way required of a private street.
2. The development of the land is well defined because the design of the subdivision and proposed improvements are in conformance with the City of Fremont's applicable codes and policies.

**Conditions**

1. The private street shall conform with staff amended Exhibit "A", attached hereto and made a part hereof and all conditions of approval of Vesting Tentative Map 7465 (Exhibit "A").
2. This Private Street (PLN2004-00192) is being conditionally approved based on the accuracy of the information shown on Exhibit "A" and submitted with the Private Street application. If any of the information is shown to be inaccurate subsequent to approval of the Private Street by the City, such inaccuracy may be cause for invalidating this approval.
3. The private street names, Verano Terrace and Pariso Terrace, shown on Exhibit "A" is subject to modification prior to final map approval. If needed, the developer shall work with staff to provide different street names, subject to staff review and approval.
4. A Private Vehicle Access Way (PVAW) and a Public Utility Easement (PUE) are to be established over the entire private street right-of-way. The PUE dedication statement on the final map is to recite that the PUE is available for, but not limited to, the installation, access and maintenance of sanitary and storm sewers, water, electrical and communication facilities.
5. Access considerations for the on-site circulation system require space to be reserved for the movement of fire-fighting and emergency vehicles for the protection of both private property and the public. Dedication of emergency vehicle access easements (E.V.A.E.) on the final map over the private street right-of-way will be required. The easement geometry shall be subject to the approval of the City Engineer.
6. Fire hydrants are to be located along the private street as determined by the Fremont Fire Department.
7. Deed restrictions are to be recorded concurrently with the final map to create a mandatory Home Owner's Association or any other mechanism acceptable to the City for those lots with private street frontage which is to covenant and be responsible for the following:
  - a. Maintenance of the facilities in the private street which are not maintained by a public utility agency, except all utility work resulting from backfill failure is to be the responsibility of the Home Owner's Association.
  - b. Payment of the water and private street lighting (maintenance and energy) bills.
  - c. Payment of the water and private street lighting (maintenance and energy) bills.
  - d. Maintenance, repair, replacement and removal of blockages in all building sewers. Maintenance of the building sewers includes repair of any trench failures and/or trench surface material failures.

- e. Maintenance and "knock-down" repair of fire hydrants and water facilities along the private street is to be done by the utility agency at the expense of the Home Owner's Association. The Home Owner's Association is to be responsible for repainting any fire hydrants along the private street.
8. Each buyer is to sign an acknowledgment that he/she has read the constitution and bylaws of the Home Owner's Association and the conditions, covenants and restrictions applying to the development.
9. Private street grading and drainage shall be done according to public street standards, subject to review and approval by the City Engineer prior to final map approval.
10. Pursuant to FMC Section 8-1522 and 8-3107, the subdivider is to improve prior to final map approval or agree to improve within one year of final map approval, the private street frontage of the map. No permanent improvement work is to commence until improvement plans and profiles have been approved by the City Engineer. Improvements are to be installed to permanent line and grade in accordance with the City's subdivision improvement standards and to the satisfaction of the City Engineer. The minimum improvements which the subdivider is normally required to construct or agree to construct prior to acceptance and approval of the final map by the City are as set forth in the City Development Policy for Private Vehicle Access ways. Improvements to be constructed include:
  - a. Curb and gutter
  - b. Driveways
  - c. Street paving
  - d. Private Street monuments
  - e. Electroliers (wired underground)
  - f. Drainage facilities
  - g. Signs
  - h. Fire hydrants
12. The private street pavement shall be designed on the basis of a traffic index using predicted traffic generation and a twenty year pavement design life. In no case shall the traffic index be less than 5.5. Asphalt concrete surfacing to be treated with a seal coat of the type and amount required by the City Engineer. Pavement design sections shall be subject to approval of the City Engineer.
13. Safety lighting is to be provided on the private street. Lights shall utilize "vandal resistant" enclosures and shall have sufficient power and spacing to provide an average maintained foot-candle level of 0.12.
14. A signpost, to which is attached a sign having an area of at least fifteen inches by twenty-one inches, is to be installed at or near the private street entrance. The name of the private street is to be placed on this sign in clearly legible four-inch letters. The sign is to have painted, in at least one-inch letters, "Private Property. Not dedicated for public use."
15. Approval of Private Street (PLN2004-00192) shall become effective upon final map approval.

**EXHIBIT "E"**  
**MISSION VILLAS**  
**Preliminary Grading Plan (PLN2004-00192)**

**FINDINGS:**

No report of approval may be made unless the reviewing agency makes the following findings:

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is not in a special studies zone. There are no fault zones or evidence of slides on the site which might be aggravated by the grading of the development. A soil study will be done and submitted to the City with the Final Map.
3. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of final map. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports. The proposed development is not in any special studies zone nor is there evidence of presence of any fault or active slides per maps issued by the U.S. Geological Survey and the California Division of Mines and Geology.
5. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

**CONDITIONS:**

1. The project shall conform to staff amended Exhibit "A", Preliminary Grading Plan (PLN2004-00192), all conditions of approval set forth herein, and all conditions of approval of Tentative Tract Map 7465 (PLN2004-00192).
2. Approval of this preliminary grading plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
3. Approval of this preliminary grading plan shall run concurrent with the approval and subsequent extensions of Tentative Tract Map 7465.
4. The developer shall provide for a functional drainage system subject to approval of the City Engineer and Alameda County Flood Control and Water Conservation District.
5. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
6. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.

7. The applicant shall provide for a functional system to control erosion and siltation during and after construction subject to review and approval by the City Engineer and Alameda County Flood Control and Water Conservation District. A separate plan shall be submitted for this purpose.
8. All cut and fill slopes shall be constructed to a maximum of three horizontal to one vertical (3:1).
9. The applicant shall submit a detailed soils report including recommendations regarding structural sections, prepared by a qualified soils engineer registered by the State of California.
10. Grading operations shall be in accordance with recommendations contained in the required soils report and be supervised by an engineer registered in the State of California to do such work. City staff will assume inspection responsibility for street grading at a point six inches below planned subgrade.
11. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
12. The applicant may be allowed grading deviation up to a maximum of one foot (plus or minus) between the preliminary grading plan and the final grading plan. Deviation over one foot may be referred to the Planning Commission subject to approval of the City Engineer.
13. The minimum drainage slope in swales shall be 1.5%.
14. Retaining walls shall be limited to a maximum height of three feet. All retaining walls supporting surcharge shall be reinforced concrete or approved equal. Pressure treated wood retaining walls will be allowed for retaining walls 12-inches or less in height.